

DEPARTMENT OF STATE REVENUE

LETTER OF FINDINGS NUMBER: 02-0268P

**Adjusted Gross Income Tax
For Fiscal Ended June 30, 2000**

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE(S)

I. Tax Administration – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

STATEMENT OF FACTS

Taxpayer protests the proposed assessment for penalty for the late payment of its income tax. The due date of the return was October 15, 2000. Taxpayer filed its return late on April 16, 2001 with payment of one hundred percent of its tax liability plus interest. The Department issued its late payment assessment on August 6, 2001.

Taxpayer filed a penalty protest letter dated August 16, 2001 and states that its entire taxable income was generated by a major divestiture that actually occurred on June 30, 2000. All other activities during the year ending June 30, 2000 totaled a loss of \$6,641,994.00. Taxpayer states that it identified payroll and property in the state of Indiana when it compiled its apportionment data. Research then disclosed that Indiana considered its divestiture as "business income" and thus it had an Indiana tax liability of \$66,179. Taxpayer prepared the Indiana return and submitted payment of the tax and interest covering the period from the original due date (10/15/00) to its actual payment date (04/11/01) and submitted a federal extension on September 15, 2001.

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DISCUSSION

Taxpayer protests the penalty assessed and states that it complied with the Indiana State Revenue requirements as soon as the facts became available.

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Taxpayer did not make payment by the original due date of the return nor attempted to make a partial payment when it had property and payroll in the state of Indiana.

Taxpayer has not provided reasonable cause to allow the department to waive the penalty.

FINDING

Taxpayer's protest is denied.

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